

House Bill 393 (AS PASSED HOUSE AND SENATE)

By: Representatives Stephens of the 164th, Williams of the 4th, Tumlin of the 38th, Amerson of the 9th, Shaw of the 176th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated, relating to state license requirements and regulations for distribution and sale of wine, so as to change certain provisions relating to licensing of farm wineries to engage in retail and wholesale sales, surety bond, and excise taxes; to define certain terms; to change certain provisions relating to sale by farm wineries of wines, distilled spirits, and malt beverages on or contiguous to its own premises; to repeal certain provisions relating to content requirements for wines manufactured by domestic and farm wineries and rules and regulations designed for enforcement of such requirements; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated, relating to state license requirements and regulations for distribution and sale of wine, is amended by revising Code Section 3-6-21.1, relating to licensing of farm wineries to engage in retail and wholesale sales, surety bond, and excise taxes, as follows:

"3-6-21.1.

(a) As used in this Code section, the term:

~~(1) 'Farm winery' means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery, or a domestic winery which:~~

~~(A) Makes at least 40 percent of its annual production from agricultural produce grown in this state;~~

~~(B) Is owned and operated by persons who are engaged in the production of a substantial portion of the Georgia agricultural produce used in its annual production;~~

~~and for this purpose such production of a substantial portion of such Georgia agricultural produce shall be determined by the commissioner, and~~

~~(C) Produces less than 100,000 gallons per year.~~

(2)(1) 'Farm winery' means a winery which makes at least 40 percent of its annual production from agricultural produce grown in the state where the winery is located and

(A) Is located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery; or

(B) Is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.

For purposes of this paragraph, the commissioner shall determine what is a substantial portion of such winery premises or agricultural produce.

(2) 'Georgia farm winery' means a farm winery which is licensed by the commissioner to manufacture wine in Georgia.

(3) 'Tasting room' means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine can be given complimentary free of charge or for a fee.

~~(b) The commissioner may authorize any licensee which is a farm winery to sell its wine and the wine of any other Georgia farm winery licensee at retail in a tasting room or other facility on the premises of the winery for consumption on the premises and in closed packages for consumption off the premises and to sell its wine and the wine of any other Georgia farm winery licensee at retail for consumption on the premises and in closed packages for consumption off the premises in tasting rooms and at five additional locations in the state but only if the annual production of wine by the farm winery is made in Georgia from at least the following percentages of Georgia grown agricultural products during the years of production provided below:~~

(1) First-year production:	Ten percent from Georgia grown berries, fruits, or grapes
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(2) Second-year production:	Twenty percent from Georgia grown berries, fruits, or grapes
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(3) Third-year production:	Thirty percent from Georgia grown
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berries, fruits, or
grapes

(4) ~~Fourth-year production and thereafter:~~ Forty percent from
Georgia grown
berries, fruits, or
grapes

(b) The commissioner may authorize any Georgia farm winery to offer wine samples and to make retail sales of its wine and the wine of any other Georgia farm winery in tasting rooms at the winery and at five additional locations in the state for consumption on the premises and in closed packages for consumption off the premises.

~~(c)(1) Except as provided in paragraph (2) of this subsection, the~~ The commissioner may authorize any licensee which is a farm winery to sell up to 24,000 gallons per calendar year of its wine at wholesale within the state; ~~but only if the annual production of wine by the farm winery is made in Georgia from at least 40 percent of Georgia grown agricultural products.~~

~~(2) The~~ provided, however, that the commissioner shall not authorize any licensed farm winery to sell its wine at wholesale ~~as provided in paragraph (1) of this subsection,~~ unless such licensed farm winery shall have first offered its products for sale at a fair market wholesale price to a licensed Georgia wholesaler. ~~If and~~ and such wholesaler does not accept the farm winery's product within 30 days of such offer, ~~the provisions of paragraph (1) of this subsection shall apply.~~

~~(d)(1)(2)~~ (2) A farm winery licensee shall also be authorized to sell, deliver, or ship its wine in bulk or in bottles, whether labeled or unlabeled, in accordance with regulations of the commissioner, to ~~other~~ Georgia farm winery licensees ~~inside the state~~ and shall be authorized to acquire and receive deliveries and shipments of such wine made by Georgia farm winery licensees ~~inside the state.~~

~~(2)(3)~~ (3) A Georgia farm winery licensee shall be authorized, in accordance with regulations of the commissioner, to acquire and receive deliveries and shipments of wine in bulk from out-of-state producers and shippers in an amount not to exceed 20 percent of its annual production, provided that the Georgia farm winery licensee receiving any such shipment or shipments files timely reports with the commissioner and keeps such records of the receipt of such shipment or shipments as may be required by the commissioner.

~~(3)(4)~~ (4) Any wine received in bulk pursuant to paragraph ~~(2)(3)~~ (3) of this subsection shall have levied thereon the requisite taxes as prescribed by Code Section 3-6-50, and such taxes shall be reported and remitted to the commissioner as provided in Code Section 3-2-6.

(e)(d) The annual license tax for each license issued pursuant to this Code section shall be \$50.00.

(f)(e) The surety bond required as a condition upon issuance of a license pursuant to this Code section shall be the same as that required pursuant to Code Section 3-6-21 with respect to wineries.

(g)(f) Wines sold at retail by a manufacturer as provided in subsection (b) of this Code section shall have levied thereon an excise tax as prescribed by Code Section 3-6-50, and such tax shall be reported and remitted to the commissioner as provided in Code Section 3-2-6."

SECTION 2.

Said article is further amended by revising Code Section 3-6-21.3, relating to sale by farm wineries of wines, distilled spirits, and malt beverages on or contiguous to its own premises, as follows:

"3-6-21.3.

(a) As used in this Code section, the term:

(1) 'Affiliate' means any person controlling, controlled by, or under common control with ~~the~~ a farm winery.

(2) 'Farm winery' means a farm winery as defined in Code Section 3-6-21.1, ~~as amended~~ that is located in Georgia.

(3) 'Tasting room' has the meaning provided by Code Section 3-6-21.1.

(b)(1) Notwithstanding any other provision of this title to the contrary, in all counties or municipalities in which the sale of wine is lawful, the commissioner may authorize any farm winery licensee to sell its wine and the wine of any other ~~Georgia~~ farm winery licensee for consumption on the premises at facilities located on the premises of the winery or on property located contiguous to the winery and owned by the winery or by an affiliate of the winery.

(2) Notwithstanding any other provisions of this title to the contrary, in all counties or municipalities in which the sale of distilled spirits, malt beverages, and wines is lawful, the commissioner further may authorize such licensee to make sales of distilled spirits, malt beverages, and wines not produced by ~~such licensee~~ a farm winery for consumption ~~on the premises in its tasting rooms and~~ at facilities located on the premises of the winery or on property located contiguous to the winery and owned by the winery or by an affiliate of the winery, provided that any alcoholic beverages sold pursuant to this paragraph shall be purchased by the winery from a licensed wholesaler at wholesale prices."

SECTION 3.

Said article is further amended by revising Code Section 3-6-29, relating to the content requirements for wines manufactured by domestic and farm wineries and rules and regulations designed for enforcement of such requirements, as follows:

"3-6-29.

~~(a) The annual production of all wines manufactured within this state for sale within this state by a domestic winery that is not a farm winery as that term is defined in Code Section 3-6-21.1 shall be made from at least 40 percent of berries, fruits, and grapes grown within this state.~~

~~(b) The annual production of all wines manufactured within this state for sale within this state by a farm winery as that term is defined in Code Section 3-6-21.1 shall be made from the following percentages of berries, fruits, and grapes grown within this state during the year of production provided below:~~

~~(1) First-year production: _____ Ten percent from
Georgia grown
berries, fruits, or
grapes~~

~~(2) Second-year production: _____ Twenty percent from
Georgia grown
berries, fruits, or
grapes~~

~~(3) Third-year production: _____ Thirty percent from
Georgia grown
berries, fruits, or
grapes~~

~~(4) Fourth-year production and thereafter: _____ Forty percent from
Georgia grown
berries, fruits, or
grapes~~

~~(c)(1) The commissioner may promulgate reasonable rules and regulations and other measures designed to ensure proper enforcement of this Code section.~~

~~(2) The powers conferred upon the commissioner in paragraph (1) of this subsection are in addition to those powers and duties provided for in Code Section 3-2-1 and Code Section 3-2-2 and nothing contained in paragraph (1) of this subsection shall prohibit the commissioner from promulgating such reasonable rules and regulations as he may be empowered to issue under any other Code section to ensure proper enforcement of this Code section. Reserved.~~

- 1 **SECTION 4.**
- 2 All laws and parts of laws in conflict with this Act are repealed.